IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH

WEDNESDAY, THE 21ST FEBRUARY 2007 / 2ND PHALGUNA 1928

WP(C).No. 10291 of 2004(A)

PETITIONER:

K.V.BALARAMAN, S/O. VELAYI,
AGED 77 YEARS, ASSISTANT EDUCATIONAL OFFICER (RETD),
KAREEPADATH HOUSE, THRITHALLUR WEST-680 619,
THRISSUR DISTRICT.

BY ADV. SRI.V.A.MUHAMMED,
SRI.K.E.HAMZA.

RESPONDENTS:
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1. **THE STATE OF KERALA,**
   REPRESENTED BY THE SECRETARY TO GOVERNMENT,
   GENERAL EDUCATION DEPARTMENT, SECRETARIAT,
   TRIVANDRUM.

2. **THE DIRECTOR OF PUBLIC INSTRUCTION,**
   JAGATHY, TRIVANDRUM.

BY

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 21/02/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C). NO.10291/2004:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P.1: COPY OF THE DECISION REPORTED IN AIR 1981 SUPREME COURT 64 DTD. 30/07/1980.

EXT.P.2: COPY OF THE ORDER NO. D6/42329/99/DPI OF THE R.2. DTD. 16/11/2000.

EXT.P.3: COPY OF THE ORDER NO. D6/34639/2001/DPI/K. DIS. OF THE R.2. DTD. 25/09/2001.

EXT.P.4: COPY OF THE ORDER NO. 5794/C2/2002/G. EDN. OF THE GOVERNMENT DTD. 09/06/2003.

EXT.P.5: COPY OF THE G.O. (RT). NO. 5070/2003/G. EDN. OF THE GOVERNMENT DTD. 09/12/2003.

//TRUE COPY//

prv.

KURIAN JOSEPH, J.

W.P.(C) No.10291 of 2004

Dated 21st February, 2007.

J U D G M E N T

The writ petition is filed mainly with the following prayer :-

> "Issue a writ of mandamus or other appropriate writ order or direction commanding the 2nd respondent to restore the seniority of the petitioner taking into consideration from the date of first appointment as Assistant Educational Officer i.e. 8.11.1958 and allow consequential promotion benefits in the higher posts as and when vacancies arose during the period from 8.11.1958 to 31.3.1981."

It is seen that the petitioner had pursued his grievance before the Government. But the request was turned down as per Exts.P5 and that is under challenge. It is the contention of the petitioner that since he was first appointed as Assistant Educational Officer on 8.11.1958, he is the senior most in the list and his seniority should be fixed just below the person who was promoted as gazetted Headmaster on 7.11.1958. According to the petitioner, hundreds of vacancies of gazetted Headmasters arose during the period from 8.11.1958 to 31.3.1981 and many of them are his juniors. Learned Government Pleader submits that the seniority assigned to the non-gazetted Assistant Educational Officers is only with effect from 22.5.1980 and even if the petitioner is assigned rank No.1 in the seniority list of non-gazetted Assistant

Educational Officers, he is not going to get any additional benefits since the first non-gazetted Assistant Educational Officer's promotion on a notional basis as District Educational Officer was only in July, 1986. Therefore, there is no merit in the writ petition. It is accordingly dismissed. However, I make it clear that in case the petitioner is able to point out any case of his junior non-gazetted Assistant Educational Officer getting promotion overlooking his claim, it will be open to him to point out the same before the Government, in which case, the case of the petitioner will be examined afresh.

KURIAN JOSEPH, JUDGE.

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KURIAN JOSEPH, J

W.P.(C)No. of 2002

J U D G M E N T

Dated 21st February, 2007.